

This Page Is Inserted by IFW Operations  
and is not a part of the Official Record

## **BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

## **IMAGES ARE BEST AVAILABLE COPY.**

As rescanning documents *will not* correct images,  
Please do not report the images to the  
Image Problem Mailbox.

Remarks

This response is submitted in response to the Final Office Action mailed May 5, 2004, to request reconsideration of the rejection of claims 1-23 as set forth therein. In the event the Examiner determines that the foregoing remarks do not place the case in condition for allowance, it is respectfully requested that the above remarks be entered to place the claims in better form for consideration on appeal.

The Office Action and references cited therein have been carefully reviewed. The following remarks herein are considered to be responsive thereto. Claims 1-23 remain in this application. Reconsideration of this application is respectfully requested.

The Examiner objected to the drawings as failing to comply with 37 CFR 1.84(p)(5) for including reference signs not mentioned in the description. The Applicants have amended the specification to reflect the description of the reference signs.

The Applicants respectfully request the withdrawal of the objection to the drawings.

In the Official Action dated May 5, 2004, which has been made FINAL, the Examiner rejected independent claims 1,7, 13, 18, 19, 20, 21, 22 and 23 and dependent claims 2-6, 8-12 and 14-17 under 35 U.S.C. §103 (a) as being unpatentable over US Patent No. 6,133,909 issued to Schein, et al. (Schein) in view of US Patent No. 5,867,226 issued to Wehmeyer, et al. (Wehmeyer).

In response, Applicants have amended independent claims 1, 7, 13, 18, 19, 20, 21, 22 and 23. Further, Applicants respectfully submit that independent claims 1, 7, 13, 18, 19, 20, 21, 22 and 23 patentably distinguish over the cited references and are allowable.

and that claims 2-6, 8-12 and 14-17 are allowable at least because they depend from an allowable base claim.

In particular, claims 1, 7, 13, 18, 19, 20, 21, 22 and 23 of the present invention are being amended for clarification purposes to more accurately and definitively set forth the invention. The claims have been amended to set forth in regard to claims 1, 18 and 21 the generation of a user query, wherein the user query specifies at least one attribute-value pair, wherein at least one of the attribute-value pairs is selected based on a prior query search that has been executed by the user. Claims 7, 19 and 22 have been amended to specify the retrieving of one or more prior query searches that have been executed. Claims 13, 20 and 23 have been amended to specify retrieval of the top-N attribute-value pairs for each possible attribute based on a number of times said attribute-value pairs have previously been utilized in a query search that has been executed by the user.

No new matter is being entered by this amendment, as original disclosure may be found in the specification at page 3, lines 6-7 and page 5, lines 5-15. It is respectfully requested that this amendment could not have been earlier made as it is being made for clarification purposes, particularly in traversal of the Examiner's Final rejection of Claims 1, 7, 13, 18, 19, 20, 21, 22 and 23 as being unpatentable over Schein in view of Wehmeyer.

Respectfully, Schein does not teach a system or method that generates or retrieves a user query based on a prior query search that has been executed by the user.

The invention disclosed in Schein relates to an interactive system for obtaining information from an electronic program guide, wherein a television system, a set-top box, a VCR, or a computer system can provide the program guide.

The Schein patent discloses various embodiments of a system implemented interactive program guide feature. To begin a query process, the selection of a particular program results in an information menu appearing on a user's television or computer screen. Upon selecting a program to be marked as a "FAVORITE" program, the system poses a series of questions to the user and therefore determines the criteria the user had applied in selecting the program as a "FAVORITE". Subsequently a user may request that the system identify potential favorites based on the entered "FAVORITE" selection criteria. Col. 11, lines 10-67, col. 12, lines 1-52.

In a further disclosed embodiment of the Schein invention, the system actively searches for programs of potential interest whenever the user views a program. The system locates programs of potential interest to a viewer after the user has watched a particular program for at least a predetermined period of time (e.g., for example, 10 minutes). After the user has continually watched a particular program for a predetermined period of time, the system develops a series of criteria to use to search the program guide for other programs that fit the same criteria and therefore may be of potential interest to the user. If any programs fitting the perceived criteria are found, the system notifies the user. Col. 13, lines 49-61.

The patent to Wehmeyer discloses an apparatus for searching for specific television programs that satisfy a user's viewing preferences. Upon the conclusion of the search, the apparatus generates a list of television programs that predict programs of interest for the viewer. In a disclosed embodiment, the apparatus stores information

about the individual television shows that the user watches as search criteria. The apparatus uses this information to compile a "predictive agent list" or "viewed item list."

To further distinguish the claimed invention from the cited art, the viewing data of a system operator is automatically stored in the "predictive agent list" by the apparatus whenever a program is watched for at least a given period of time (e.g., 5 or more minutes). Summarily, a record is kept of the user's viewing habits so that the apparatus can be assisted in making a prediction of which upcoming shows that may be of interest to a viewer. Col. 2, lines 33-40.

It can be ascertained from Figures 8, 9 and 12 of the Schein patent that the user and system both configure selection criteria that is to be used for future searches. The query process disclosed in Schein uses the criteria selected in the "FAVORITES" menu to determine the programming viewing choices that will be provided to a system user from the time forward after the designation of a program as "FAVORITE".

Nowhere is it disclosed in Schein that the query function of the system comprise determining the "FAVORITE" criteria in conjunction with a prior query search that has been executed by the user in order to produce a new query or the parameters that are used to determine the criteria that specify a program as a "FAVORITE."

Each query executed in the Schein invention is a new query that relies on the determined selection criteria parameters established when the system initiates and gathers the information that is determined to establish a program as a "FAVORITE." This initial criterion-determining step executed by the system carries forward no information from previously executed queries to assist in the generation of further new queries.

The Examiner equates the selecting of the "FAVORITE" identifying parameters function of the Schein system to an actual user requested system query search. This functional aspect is nowhere to be found in Schein. It must be noted that the search criteria-gathering step of the Schein invention are initiated and executed by the system in response to a user marking a program as "Favorite" and not automatically in response to a user making a specific query search or a request that the search criteria information be determined.

Thus the scope of the Schein invention is totally outside of the scope of the Applicants' claimed invention, which recite a prior query search that has been executed by the user, wherein the prior query search executed by the user is used to facilitate future query searches. Hence, there would appear to be no basis for the comparison of the Schein invention with the Applicants' claimed invention.

Therefore claims 1, 7, 13, 18, 19, 20, 21, 22 and 23 are allowable over the cited references. Claims 2-6, which depend from claim 1, claims 8-12, which depend from claim 7 and claims 14-17, which depend from claim 13 are allowable for this reason.

The Examiner cited the reference to Wehmeyer as disclosing the use of "multiple attributes or 'top-N search terms'...to find programs that are of interest to the user," Office Action, pg. 4. However, Wehmeyer discloses the automatic loading of a viewed item list, wherein the system will check to see if the television viewer has been tuned to the same program for five minutes or more. If the viewer has been tuned to the same program, then the viewed item list is accessed from the system's memory. A check is made by the system to determine if the viewed program *matches* an item within the memory. If the program does not match an item in memory then the system checks to

ascertain if the *viewing list is full*. If it is determined that the viewing list is not full then the program item is added to the list.

Subsequently, a viewer may initiate a system query to determine “ ‘what’s on’ at any given time.” Col. 3, lines 16-17. The result of the query is determined from a prediction query utilizing the *entire* viewing list. Further, a display listing of the prediction list may be “presented in a ‘weighted fashion’...in descending order of the number of times that a particular type of show was watched.” Col. 3, lines 21-24.

The Wehmeyer invention does not retrieve the top-N attribute-value pairs for each possible attribute based on a number of times the attribute-value pairs have previously been utilized in a query. Rather, the Wehmeyer invention compiles a viewer item listing of program values based on the amount of time that a viewer is tuned into a program and from the *entire item listing* makes a determination of how many times a particular type of show has been viewed and from this determination generates a predictive listing.

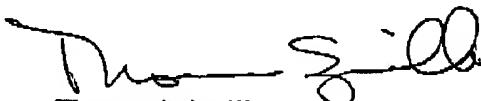
Thus Wehmeyer teaches away from the present invention wherein the previous queries of a viewer are accessed to determine what the top attribute-values are within the system and utilize a determined number of the attribute-values garnered from previous queries to construct new queries.

Therefore, Wehmeyer is limited in scope to a system that compiles a viewer listing and accesses the *entire item listing* in order to generate and display a predictive listing to a system viewer.

For the above reasons, claims 13, 20 and 23 are allowable over the cited references. Further, claims 14-17, which depend from claim 13, are allowable for this reason.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



Thomas Spinelli  
Registration No.: 39,533

Scully, Scott, Murphy & Presser  
400 Garden City Plaza  
Garden City, New York 11530  
(516) 742-4343  
TS:WAP:jf